

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

CASSANDRA RENEE)
NICHOLS,)
)
 Plaintiff,)
)
 v.) Case No.: 3:08-CV-501-AKK
) (OPPOSED)
 VOLUNTEERS OF AMERICA,)
 NORTH ALABAMA, INC.,)
)
 Defendant.)

**MOTION TO QUASH SUBPOENA OR,
IN THE ALTERNATIVE, MOTION TO MODIFY SUBPOENA**

Defendant Volunteers of America, North Alabama, Inc. (“Volunteers”), pursuant to Rule 45(d)(3)(A)(iv) of the Federal Rules of Civil Procedure, hereby respectfully moves this Court to quash the subpoena Plaintiff served on Mr. Victor Tucker on January 26, 2014 (the “Subpoena”). In the alternative, Volunteers moves the Court to modify the Subpoena by requiring Mr. Tucker’s attendance at the trial of this matter no sooner than March 6, 2014. In support of this Motion, Volunteers states as follows:

1. On January 26, 2014, counsel for Plaintiff served the Subpoena on Mr. Tucker, which requires him to appear at the trial of this matter at 9:00 a.m. on March 3, 2014.

2. Mr. Tucker has informed counsel for Volunteers that he is scheduled to be out of the country through March 5, 2014. Mr. Tucker booked this trip prior to being served with the Subpoena.

3. Rule 45(d)(3)(A)(iv) of the Federal Rules of Civil Procedure provides that “[o]n timely motion, the court for the district where compliance is required must quash or modify a subpoena that . . . subjects a person to undue burden.”

4. Requiring Mr. Tucker’s presence at the trial of this matter on the morning of March 3, 2014, subjects him to undue burden, including financial loss by having to modify and/or cancel his travel plans.

5. Mr. Tucker has informed counsel for Volunteers that he can be available to testify at trial on March 6, 2014.

6. Counsel for Defendants contacted counsel for Plaintiff by email on the morning of February 12, 2014, in an effort to resolve this issue without the Court’s involvement. The email indicated that if counsel for Volunteers did not receive a response from counsel for Plaintiff by 1:00 p.m. on February 12, counsel for Volunteers would assume that this motion is opposed. Counsel for Plaintiff did not respond.

WHEREFORE, PREMISES CONSIDERED, Volunteers respectfully requests the Court to quash the Subpoena or, in the alternative, to modify the

Subpoena by requiring Mr. Tucker's attendance at the trial of this matter no sooner than March 6, 2014.

Respectfully submitted,

s/ Christopher S. Kuffner
One of the Attorneys for Defendant
Volunteers of America, North Alabama, Inc.

OF COUNSEL:

David B. Block (ASB-5098-K62D)
Christopher S. Kuffner (ASB-1938-O65K)
MAYNARD, COOPER & GALE, P.C.
655 Gallatin Street
Huntsville, AL 35801
Telephone: (256) 551-0171
Facsimile: (256) 512-0119
dblock@maynardcooper.com
ckuffner@maynardcooper.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of February, 2014, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following:

Michael Weathers
101 Courtview Towers
Florence, AL 35630-5417

s/ Christopher S. Kuffner
Counsel